

# **NOTICE OF PROPOSED RULEMAKING**

## **TO ALL INTERESTED PERSONS:**

The California Department of Transportation ("Department") proposes to adopt the proposed regulations described below after considering all comments, objections and recommendations regarding the proposed action. Following the public hearing and comment period, the proposal may be adopted substantially as set forth without further notice.

## **PUBLIC HEARING**

The Department will hold a public hearing starting at 10:00 a.m. on January 23, 2006, at 1120 N Street, Room 1450, Sacramento, California. The building is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Department requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

## **WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. The written comment period closes at 5:00 p.m. on January 23, 2006. The Department will consider only comments received at the Department by that time. Submit comments to:

James Arbis or Joel Ibarra  
Division of Traffic Operations, Office of Outdoor Advertising  
California Department of Transportation  
1120 N Street, MS-36  
Sacramento, CA 95814

## **AUTHORITY AND REFERENCE**

Business and Professions Code, Sections 5250 and 5415 authorize the Department to adopt the proposed regulatory actions that would implement, interpret or make specific Section 5485(a)(2) of the Business and Professions Code.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The Department proposes to adopt Section 2422.1 in Title 4 of the California Code of Regulations. Business and Professions Code, Sections 5250 and 5415 authorize and require the Department to promulgate regulations to enforce the Outdoor Advertising Act (Business and Professions Code sections 5200 et seq.) consistent with national standards.

The Outdoor Advertising Act and national standards provide specific requirements and restrictions concerning the specifications of outdoor advertising displays and the conduct of outdoor advertising activities, including licensing and permitting requirements. Moreover, there is statutory authority that concerns violation and enforcement provisions related to displays, permits and licenses. The existing regulations were enacted in 1978 and later amended in 1999 to implement State statutory and Federal statutory and regulatory authority.

The proposed regulatory action will implement the Outdoor Advertising Act and national requirements concerning the collection of fees for administering the program. Business and Professions Code, Section 5485 authorizes the Director to set the permit fee for each advertising display.

The proposed regulation, Section 2422.1 is necessary to reduce expenses the Department incurs in administering the program. Permit fees are applied to recover program expenses on operating costs that the program is charged with which funnels through the state highway account.

In conclusion, this regulatory action proposes to adopt regulation in Title 4, Division 6 of the California Code of Regulations for consistency and to effectively serve the Department and the public.

## **DISCLOSURES REGARDING THE PROPOSED ACTION**

### ***The Department has made the following initial determinations:***

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other non-discretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on private person(s) or businesses: The Department is not aware of any cost impacts on private person(s) or businesses that would necessarily incur in reasonable compliance with the proposed regulatory action.

Adoption of this regulatory action will not:

- (1) create or eliminate jobs within the state of California;
  - (2) create new businesses or eliminate existing businesses within the state of California;
- or
- (3) affect the expansion of businesses currently doing business within the state of California.

Significant effect on housing costs: None.

***Small Business Determination***

The Department has determined that the proposed regulatory action may affect small businesses.

**CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code, Section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulatory action at the scheduled hearing or during the written comment period.

**CONTACT PERSON**

Inquiries concerning the proposed regulatory action may be directed to:

James Arbis or Joel Ibarra  
Division of Traffic Operations, Office of Outdoor Advertising  
California Department of Transportation  
1120 N Street, MS-36  
Sacramento, CA 95814  
Telephone: (916) 653-3042; CALNET 453-3042

Please direct requests for copies of the proposed text (the "express terms") of the regulatory action, the initial statement of reasons, the modified text of the regulatory action, if any, or other information upon which the rulemaking is based to James Arbis or Joel Ibarra at the above address.

### **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address during regular business hours. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations and the initial statement of reasons. Copies may be obtained by contacting James Arbis or Joel Ibarra at the address or phone number listed above.

### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After holding the public hearing and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to Joel Ibarra at the address indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting James Arbis or Joel Ibarra at the above address.

### **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons and the text of the proposed regulation can be accessed through the Department's website at [www.dot.ca.gov/oda](http://www.dot.ca.gov/oda).